THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.5233 of 2006

Dated: 08.09.2006

Between:

G. Veerender Rao.

.... PETITIONER

AND

The Regional Manager, APSRTC, Khammam Region, Khammam District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.5233 of 2006

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of 3rd respondent in passing the proceedings dated 31.03.1999, withholding the annual increment of the petitioner for a period of two years with cumulative effect, as illegal and arbitrary.

The petitioner is employed as a Driver in APSRTC. He was issued a charge sheet, dated 03.11.1998, alleging that while driving the bus on route from Miryalaguda to Manugur, he caused an accident on 26.10.1998, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted explanation on 09-11-1998 denying the charges framed against him. The 3rd respondent, without conducting any regular departmental enquiry and without affording any opportunity, issued impugned proceedings imposing punishment of withholding the annual increment for a period of two years with cumulative effect and also imposing punishment of treating the suspension period as not on duty. Aggrieved by the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that stoppage of

increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]".

On the other hand, learned Standing Counsel appearing on behalf of the respondents-Corporation vehemently opposed the said contention and submitted that 3rd respondent, after careful consideration of the entire evidence available on record together with the explanation submitted by the petitioner, has passed the impugned order, hence, no reasons to interfere with the same.

Heard the learned counsel for both the parties and perused the material available on record.

It is an admitted fact that 3rd respondent imposed punishment of deferment of annual increment for a period of two years with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The apex Court in "***Kulwanth Singh Gill's Case*** (1 supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment for a period of two years was imposed without conducting regular departmental enquiry violating the judgment of the apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs

to be set aside leaving it open to 3rd respondent to pass fresh orders. But, to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel agreed that instead of remitting the matter to 3rd respondent for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of annual increment without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 31.03.1999, passed by 3rd respondent, imposing punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 08.09.2006

sj

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1 1991 Supp (1) SCC 504